

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

v.

JOHN MICHAEL DAUGHERTY

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CRIMINAL NO. 4:09-CR-065-ALM-CAN

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government's request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 3, 2021, to determine whether Defendant violated his supervised release. Defendant was represented by Matt Hamilton. The Government was represented by Ernest Gonzalez.

On April 20, 2010, United States District Judge Richard A. Schell sentenced Defendant to a term of one hundred eight (108) months' imprisonment, followed by three (3) years of supervised release. On February 21, 2020, this case was reassigned to United States District Judge Amos L. Mazzant, III.

On May 17, 2021, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 41). The Petition asserts Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; and (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.

The Petition asserts that Defendant violated these conditions because (1) on January 28, 2020, Alere Laboratory reported Defendant's urine sample tested positive for methamphetamine;

and (2) on January 28, March 15 and 25, and May 11, 2021, Defendant's urine samples tested positive for methamphetamine. Defendant signed an admission form with respect to the January 28, March 15, and May 11, 2021 test results.

On June 3, 2021, the Court conducted a final revocation hearing on the Amended Petition. Defendant entered a plea of true to allegations 1 and 2. *See* Dkt. 45. Defendant also consented to revocation of his supervised release and waived his right to object to the proposed findings and recommendations of the United States Magistrate Judge. The Court finds that Defendant has violated the terms of his supervised release, and thus, his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments presented at the June 3, 2021 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, followed by twelve (12) months of supervised release with the same conditions of release previously imposed. The Court further recommends Defendant be committed to the Bureau of Prisons facility in Seagoville, Texas, if appropriate.

So ORDERED and SIGNED this 4th day of June, 2021.

A handwritten signature in black ink, appearing to read 'K. Priest Johnson', written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE